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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,955	06/15/2006	Yoshihiro Kashoji	06-05-2844	1467
23388 7590 03/31/2009 TROJAN LAW OFFICES 9250 WILSHIRE BLVD SUITE 325 BEVERLY HILLS, CA 90212				
EXAMINER				
PATEL, VINOD D				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
03/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,955

Applicant(s)

KASHOJI ET AL.

Examiner

Vinod D. Patel

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Arguments/Amendments

1. Applicant's arguments/amendments have been fully considered but they are not persuasive as for the following reason:
2. The text of those sections of Title 35, U.S. Code not included in this section can be found in the previous office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 7-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 7, lines 13-14, "said portion of said slide member capable of moving out of interference with said connection when said slide member is not covering said ignition window." is not supported by disclosure. This is considered new matter

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1- 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn (US5285050) in view of Gustavsson et al. (US5643480).

With respect to claim 1, Blackburn discloses a battery powered lighter (Fig. 1-17) comprising: a thin flat case; a battery (32) provided within the flat case; a resistance wire heating element (40) connected to the battery; and a power switch (16, 16A, 76) for opening and closing the connection between the battery and the resistance wire heating element; wherein the flat case comprises: an ignition window (14), open at a position where the heating element faces; a slide member (62,82) for opening and closing the ignition window; and an operating button (16, 16A, 76) for operating the power switch; an operation of the operating button is precluded in the state that the ignition window is closed by the slide member, by a portion of the slide member being interposed between contacts of the power switch; and the power switch is capable of being closed and activated by an operation of the operating button, in the state that the ignition window is open.

Blackburn disclose conventional A A batteries or other suitable equivalent but silent with respect to a sheet type battery.

Gustavsson et al. discloses an electric heating device (34) comprising a sheet type battery (45) which is not much thicker than normal letter paper to provide power (column 4, lines 1-10).

It would have been obvious to one of ordinary skilled in the art at the time of invention is to provide a sheet type battery in order to provide save space because of paper size as taught by Gustavsson for the battery powered lighter of Blackburn.

With respect to claim 2, Blackburn discloses a battery powered lighter comprising: a display portion provided on a flat surface (20, 22) of the flat case.

With respect to claim 3, Blackburn discloses a battery powered lighter wherein: an operating portion of the slide member (62) and the operating button (16, 16A) are positioned adjacent to each other on the flat case.

With respect to claim 4, Blackburn discloses a battery powered lighter wherein: a fixing portion (column 1, line 49-56, column 3, lines 30-35, and claim 1) of the resistance wire heating element is structured of heat cured resin.

With respect to claim 5, Blackburn discloses a battery powered lighter wherein: the battery is irreplaceably housed within the flat case, so that the lighter is disposable, if user do not open the battery compartment battery is irreplaceable and the lighter is disposable if user desired to dispose the lighter.

With respect to claim 6, Blackburn discloses a battery powered lighter as wherein: a portion of the flat case is openable and closable; and the battery is replaceably housed therein.

With respect to claim 7, Blackburn discloses a battery powered lighter comprising: a thin fiat case; a sheet type battery provided within the fiat case; a resistance wire heating element connected to a battery; and a power switch for opening and closing the connection between the sheet type battery and the resistance wire heating element; wherein the fiat case comprises: an ignition window, open at a position where the heating element faces; a slide member for opening and closing the ignition window; and an operating button for operating the power switch; a portion of the slide

member capable of preventing the power switch from completing said connection between the battery and heating element when said slide member is in the closed position over said ignition window; and said portion of said slide member capable of moving out of interference with said connection when said slide member is not covering said ignition window.

Blackburn disclose conventional A A batteries or other suitable equivalent but silent with respect to a sheet type battery.

Gustavsson et al. discloses an electric heating device (34) comprising a sheet type battery (45) which is not much thicker than normal letter paper to provide power (column 4, lines 1-10).

It would have been obvious to one of ordinary skilled in the art at the time of invention is to provide a sheet type battery in order to provide save space because of paper size as taught by Gustavsson for the battery powered lighter of Blackburn.

With respect to claim 8, Blackburn a battery powered lighter comprising: a display portion provided on a flat surface of the flat case.

With respect to claim 9, Blackburn a battery powered lighter wherein: an operating portion of the slide member and the operating button are positioned adjacent to each other on the flat case.

With respect to claim 10, Blackburn a battery powered lighter wherein: a fixing portion of the resistance wire heating element is structured of heat cured resin.

With respect to claim 11, Blackburn discloses a battery powered lighter wherein: the sheet type battery is irreplaceably housed within the flat case, so that the *lighter* is

disposable, if user do not open the battery compartment battery is irreplaceable and the lighter is disposable if user desired to dispose the lighter.

With respect to claim 12, Blackburn discloses a battery powered lighter wherein: a portion of the flat case is openable and closable; and the battery is replaceably housed therein.

Remarks

Applicant's arguments filed 12/19/08 have been fully considered but they are not persuasive. Blackburn discloses an operation of the operating button is precluded in the state that the ignition window (14) is closed by the slide member (62, 82) by a portion of the slide member (62, 82) being interposed between contacts (50) of the power switch (16, 16A, 76); and the power switch is capable of being closed and activated by an operation of the operating button in the state that the ignition window is open as shown in Fig. 1-17. During examination, claim limitations are to be given their broadest reasonable reading. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

The combination of prior art is proper because, (a) Combining prior art elements according to known methods to yield predictable results; (b) Simple substitution of one known element for another to obtain predictable results; (c) Use of known technique to improve similar devices (methods, or products) in the same way; (d) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (e) " Obvious to try " – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (f) Known work in one

field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art; (g) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **VINOD D. PATEL** whose telephone number is (571)272-4785. The examiner can normally be reached on 7.15 A.M. TO 3.45 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu B. Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vinod D. Patel/ 3/26/09
Examiner, Art Unit 3742

/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742